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Message Text

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C O N F I D E N T I A L STATE 199670

FOLLOWING REPEAT BONN 14129, ACTION SECSTATE INFO TOKYO LONDON
ROME PARIS OTTAWA 02 AUG:

QUOTE C O N F I D E N T I A L BONN 14129

PASS TO NSC AND DOT

E.O. 11652: GDS
TAGS: EAIR, CA, FR, IT, JA, UK
SUBJECT: BONN MEETING ON SUMMIT ANTI-HIJACKING
DECLARATION

1. SUMMARY. TWO DAY BONN MEETING REACHED SUCCESSFUL
CONCLUSION WITH AGREEMENT ON TWO CRUCIAL
ITEMS - PUTTING IN PLACE MECHANISM TO MANAGE RESPONSE
TO SPECIFIC HIJACKING INCIDENTS AND INITIATING
DIPLOMATIC ACTIVITY TO SOLICIT SUPPORT FROM ADDITIONAL
GOVERNMENTS FOR BONN SUMMIT DECLARATION. END SUMMARY.

2. THE PRINCIPAL ACHIEVEMENT OF THE AUGUST 1-2
BONN EXPERTS MEETING WAS THE DECISION TO CREATE
A MECHANISM WHICH WOULD PROMPTLY MANAGE OUR
RESPONSE TO ANY HIJACKING INCIDENT. THE
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MECHANISM AGREEDWOULD OPERATE
AS FOLLOWS IN EVENT OF AN INCIDENT: IN THE
IMMEDIATERHJMTRMATH CONSULTATION AND COORDINATION
WOULD BE TRIGGERED BY THE GOVERNMENT OF THE
PLANE'S OPERATOR IF ONE OF THE SEVEN, OR BY
ANY OF THE SEVEN IF THE PLANE'S OPERATOR IS FROM
A THIRD COUNTRY. THE TRIGGERING GOVERNMENT WOULD

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RETAIN RESPONSIBILITY FOR COORDINATING THE THREE STAGES OF FACT FINDING, DETERMINATION OF COMPLIANCE OR DEFAULT BY THE GOVERNMENT WHERE THE INCIDENT ENDED, AND IMPOSITION OF SANCTIONS. DECISIONS WOULD BE BY UNANIMITY, BUT, IF THAT WERE NOT POSSIBLE, EACH OF THE SEVEN RETAINS THE OPTION FOR INDEPENDENT ACTION. THE SANCTIONS IMPOSED WOULD INCLUDE THIRD, FOURTH, AND FIFTH FREEDOM RIGHTS; FIRST AND SECOND FREEDOMS MIGHT ALSO BE CONSIDERED.

3. ALL DELEGATIONS AGREED EACH SUMMIT GOVERNMENT WOULD DESIGNATE A CONTACT POINT FOR FUTURE INCIDENT MANAGEMENT. EACH WILL INDICATE TO OTHER PARTICIPANTS BEFORE AUGUST 31 WHAT THAT AGENCY WILL BE. DELEGATIONS ALSO UNDERTOOK TO TRANSMIT TO CANADIANS BY SEPTEMBER 15 COMMENTS ON MORE ELABORATE DRAFT GUIDELINES FOR PROCEDURES TO BE FOLLOWED DURING THREE STEPS OF CONSULTATIVE PROCESS. ALL AGREED THAT THE PROCESS MUST BE UNCOMPLICATED AND FLEXIBLE TO ENSURE ADEQUATE RESPONSE TO SPECIFIC CASES. IT WAS AGREED THAT THE SCOPE OF DECLARATION INCLUDED ALL INTERNATIONAL HIJACKINGS, BUT THE FOCUS OF THE DISCUSSION WAS ON INCIDENTS IN WHICH ONE OF THE SEVEN HAD A DIRECT INTEREST BECAUSE OF NATIONALITY OF AIRCRAFT OR CONFIDENTIAL

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PASSENGERS. IT WAS RECOGNIZED THAT ABSENCE OF SUCH DIRECT INTEREST WOULD BE A CIRCUMSTANCE TO CONSIDER DURING CONSULTATIONS ON HIJACKINGS WHICH INVOLVED ONLY NON-SUMMIT COUNTRIES.

4. THE DELEGATIONS ALSO AGREED ON A SCENARIO FOR FOLLOW ON DIPLOMATIC DEMARCHES IN NON-SUMMIT COUNTRIES. THE DIPLOMATIC ACTIVITY AGREED TO AD REFERENDUM CONSISTED OF THE FOLLOWING POINTS. THE FRG AMBASSADOR WOULD IN EACH CAPITAL CONSULT WITH HIS SIX COLLEGUES TO DETERMINE THE NATURE OF A JOINT APPROACH DEPENDING ON LOCAL CONDITIONS, THE FRG MIGHT SPEAK FOR ALL SEVEN, EACH MIGHT MAKE A DEMARCHE INDIVIDUALLY, OR A JOINT DEMARCHE MIGHT BE MADE. US CONFIRMED ITS WILLINGNESS TO TAKE LEAD IN ROC AS DID FRANCE IN ALBANIA, ITALY IN ANGOLA. JAPAN WILL CONSIDER WHAT CAN BE DONE IN CASE OF CAMBODIA. THE DEMARCHE WOULD INCLUDE BOTH NOTIFICATION AND URGING OF SUPPORT FOR THE DECLARATION. INTERNATIONAL AND REGIONAL ORGANIZATIONS IN WHICH AT LEAST ONE OF THE SEVEN IS A MEMBER WILL BE NOTIFIED AFTER DELEGATIONS

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CONSULT. FRG WILL COMMUNICATE TEXT OF DECLARATION TO SECRETARIATS OF REGIONAL ORGANIZATIONS TO WHICH NONE OF SEVEN IS MEMBER.

5. IF LOCAL GOVERNMENT INDICATES DESIRE TO SUPPORT BONN DECLARATION ALL SUCH EXPRESSIONS WILL BE WELCOMED. BUT, IN RESPONSE TO INQUIRY, PREFERRED METHOD WILL BE VIA WRITTEN NOTIFICATION TO THE SEVEN PLUS A PUBLIC ANNOUNCEMENT (AS AUSTRIA HAS ALREADY DONE. THE DEMARCHES SHOULD BE MADE AT A POLITICAL LEVEL AND PREFERABLY BEFORE AUGUST 31.

6. GOVERNMENTS THAT NOTIFY US OF THEIR SUPPORT FOR BONN DECLARATION WOULD BE ABLE TO PARTICIPATE CONFIDENTIAL

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IN MANAGEMENT OF HIJACKING INCIDENT WHERE THEIR INTERESTS WERE DIRECTLY INVOLVED. SUCH A COUNTRY COULD REQUEST ONE OF SEVEN TO INCLUDE IT IN THE CONSULTATION PROCESS IF THE PLANE HIJACKED OR A SIGNIFICANT NUMBER OF THE PASSENGERS WERE OF ITS NATIONALITY. SUCH A GOVERNMENT WOULD ALSO BE INCLUDED IN THAT PROCESS IF IT SEEMED LIKELY THAT ITS AIR SERVICES WOULD BE AFFECTED BY A DETERMINATION TO APPLY SANCTIONS.

7. BONN MEETING ALSO REVIEWED AND AGREED TO CONTINUE TO STUDY A NUMBER OF SENSITIVE LEGAL ISSUES. THE FRENCH RAISED THE ISSUE OF A POSSIBLE BREACH OF THE CHICAGO CONVENTION AND BILATERALS IF THE SEVEN APPLIED SANCTIONS. THE FRG TOOK THE POSITION THAT REBUS SIC STANTIBUS DOCTRINE WOULD APPLY, WHILE UK AND US ARGUED THAT AIR SAFETY PURPOSE OF CHICAGO CONVENTION WOULD PROVIDE JUSTIFICATION OF SANCTIONS ACTION. FRANCE, ITALY, AND JAPAN EXPRESSED HESITATION ABOUT THESE ARGUMENTS BUT AGREED TO STUDY THEM FURTHER. FRANCE ALSO PRESENTED GROUP WITH A WRITTEN LIST OF RELATED BUT UNRESOLVED LEGAL ISSUES.

8. SEVERAL DELEGATIONS FLATLY STATED THAT BONN DECLARATION WAS A STATEMENT OF POLITICAL WILL AT HIGHEST LEVEL AND THAT LACK OF AGREEMENT ON LEGAL ARGUMENTS WOULD NOT IMPEDE THEIR IMPLEMENTATION. NO DELEGATION DISAGREED.

9. FINALLY, ALL AGREED TO INFORM BONN BY AUGUST 31 OF THEIR VIEWS ON DATE FOR SUBSEQUENT MEETING TO CONSIDER CANADIAN GUIDELINES, RESULTS OF DIPLOMATIC CONFIDENTIAL

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ACTIVITY, AND REVIEWS OF LEGAL ISSUES LEFT
UNRESOLVED. IT WAS SUGGESTED THAT SUCH A MEETING
MIGHT BE HELD IN OCTOBER.

COMMENT: FROM USG POINT OF VIEW, RESULTS OF BONN
MEETING ARE EXTREMELY POSITIVE ALTHOUGH IT BROUGHT
TO LIGHT VARIOUS SIGNIFICANT DIFFERENCES OF OPINION
ABOUT LEGAL ISSUES, NON-SEVEN PARTICIPATION IN
IMPLEMENTING MECHANISMS AND FORM AND SUBSTANCE
OF THIRD COUNTRY SUPPORT. FRENCH, ITALIANS AND
JAPANESE WERE IN GENERAL WITHOUT INSTRUCTIONS
FROM THEIR MINISTERS AND INSISTED THAT MOST DECISIONS
HAD TO BE AD REFERENDUM. GERMANS, CANADIANS AND
OURSELVES CAME BACK REPEATEDLY DURING DISCUSSIONS
TO POLITICAL SIGNIFICANCE OF BONN DECLARATION

AND IMPORTANCE WHICH OUR GOVERNMENTS AT HIGHEST
LEVELS ATTACHED TO PROMPT IMPLEMENTATION.
ACHIEVEMENTS OFSESSION REFLECT CLOSE COLLABORATION
AMONG THESE THREE DELEGATIONS WITH USEFUL SUPPORT
FROM BRITISH, WHO, HOWEVER WERE ALSO LACKING IN
EXPLICIT INSTRUCTIONS. GERMAN CHAIRMAN FLEISCHAUER
WAS INSTRUMENTAL IN KEEPING CONFERENCE ON TRACK
AND ITS SUCCESS IS IN LARGE PART RESULT OF HIS
LEADERSHIP.

US DELEGATIONS BASIC GOAL WAS TO MAINTAIN MOMENTUM
OF BONN SUMMIT INITIATIVE BY A) OBTAINING CONSENSUS
THAT NO DETAILED LEGAL IMPLEMENTING DOCUMENTS ARE
NECESSARY SINCE THE DECLARATION HAS IMMEDIATE EFFECT.
B) BY OBTAINING AN AGREEMENT OF THE SCOPE AND
NATURE OF FOLLOW ON DIPLOMATIC EFFORTS AND
C) BY CREATING A STRUCTURE WHICH WOULD INCLUDE ALL
THE SEVEN TO MONITOR HIJACKING INCIDENTS AND TO
REVIEW AND COORDINATE THE EFFORTS TO EXPAND INTER-
NATIONAL SUPPORT FOR THE DECLARATION. ESSENTIALLY
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THESE GOALS WERE ALL ACHIEVED, NOT WITHSTANDING
THE FACT THAT THERE WILL BE SOME SLOWING DOWN
OF THE PROCESS BECAUSE OF LACK OF ADEQUATE
INSTRUCTIONS BY SEVERAL PARTICIPANTS. MOST
IMPORTANTLY, WE WILL NOT BE INIBITED FROM
TAKING JOINT EFFECTIVE ACTION IN THE AFTERMATH OF
A HIJACKING INCIDENT. WE WILL IN ALL PROBABILITY

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BE MEETING AGAIN WITHIN THE NEXT TWO TO THREE
MONTHS AND AT THAT TIME WE SHOULD BE IN A POSITION
TO CLARIFY THE OUTSTANDING LEGAL ISSUES, REDEFINE
OUR INCIDENT MANAGEMENT CAPABILITY AND REVIEW THE
FORMAL AND INFORMAL EXPRESSIONS OF SUPPORT WHICH WE
HAVE RECEIVED FROM THIRD PARTIES.

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